



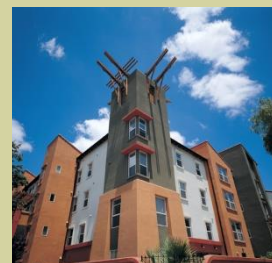
City of San Jose

Advisory Committee for the Apartment Rent Ordinance

Cost Pass-Through Provisions

Wednesday, October 21, 2015

San Jose City Hall – Wing Rooms 118-120



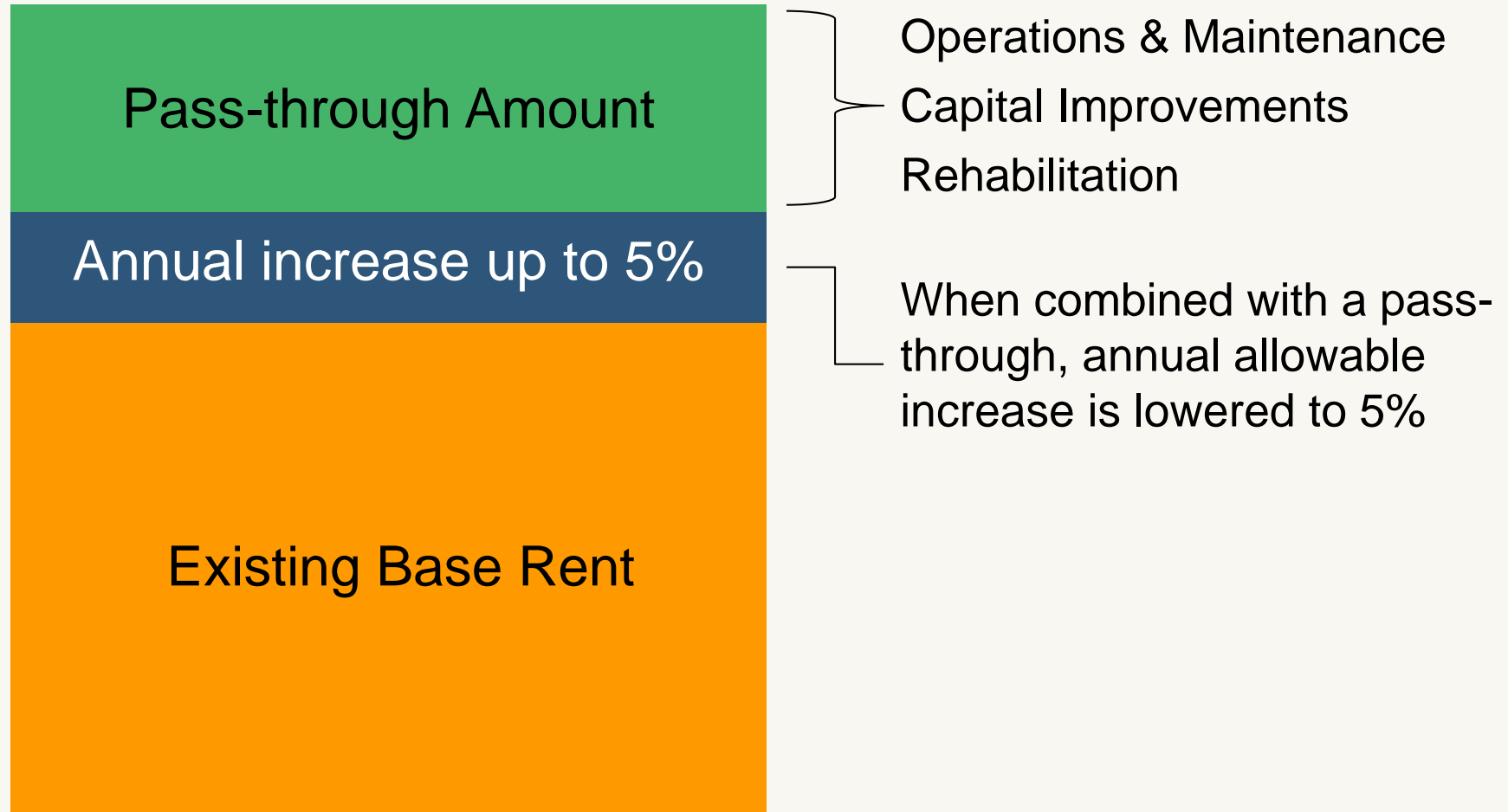
Item D – Unfinished Business from October 17

Item E – Existing Cost Pass-Through Provisions

Cost Pass-through

- Owners/managers can pass certain costs to renters
- Allows for building upkeep and financial return
- Four types:
 - Operations & Maintenance
 - Capital improvement
 - Rehabilitation
 - Debt-service
- Utilize apartment cost worksheet

Cost Pass-through: Allowable Increase

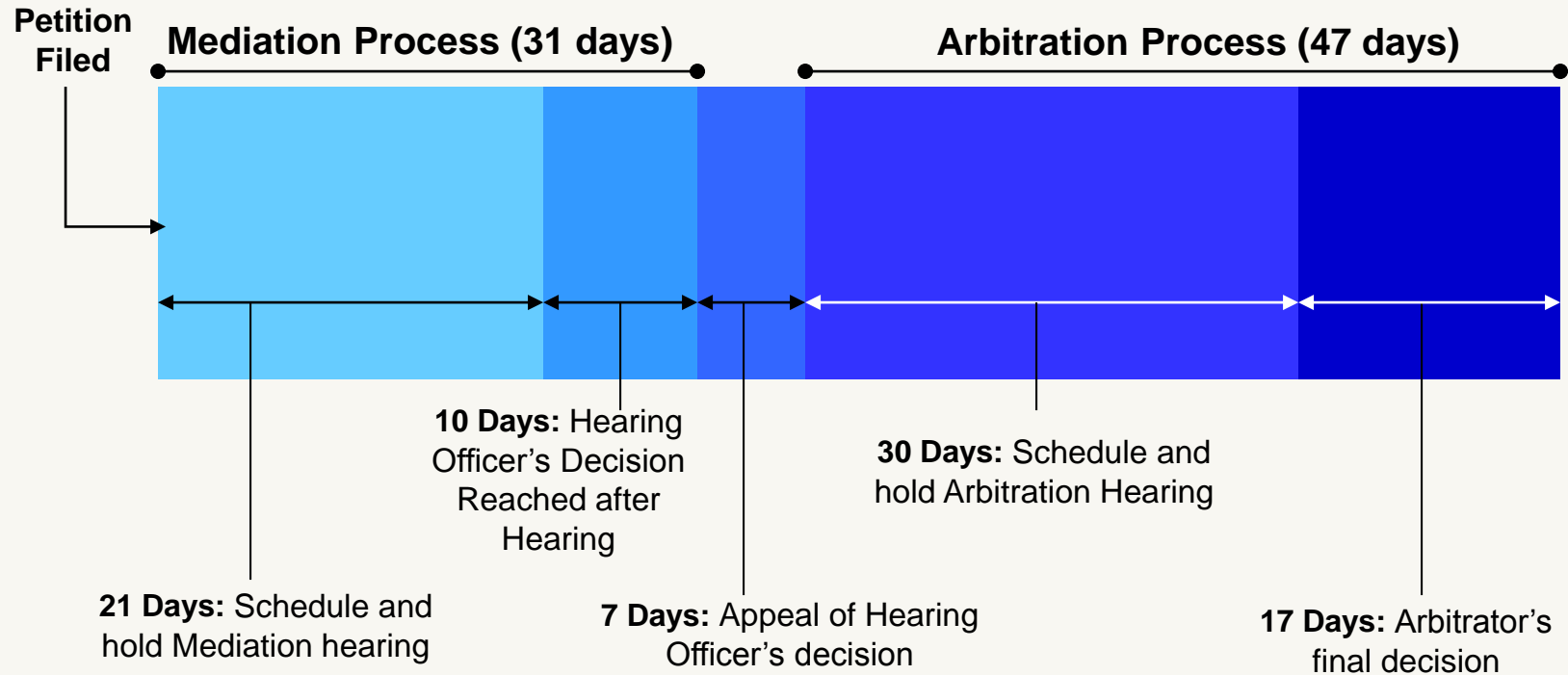


*diagram not to scale. For illustrative purposes only

Cost Pass-through: Provisions

- Owner/manager files a petition with the City
- Within 5 days of filing with the City, owner/manager provides tenant notice of rent increase
- Obtain a determination of eligibility and pass-through amount from the City or through Voluntary Agreement
- Tenant can challenge rent increases due to pass-through
- Rent increases that result from an approved pass-through remain in perpetuity

Petition Intake & Review Process



Operations & Maintenance Pass-Through

- Costs must be incurred in 12 months prior to rent increase
- Compare the change in costs between 1st and 2nd year
- Eligible costs include:
 - Real estate taxes
 - Business taxes and fees
 - Insurance
 - Sewer service charges
 - Utilities
 - Janitorial services
 - Professional property management fees
 - Interest cost of adjustable rate mortgages
 - Pool maintenance
 - Exterior building and grounds maintenance
 - Supplies
 - Equipment
 - Refuse removal
 - Elevator service
 - Security systems or services

Operations & Maintenance Pass-Through

- Oakland & Santa Monica:
 - Insurance, repairs, general maintenance, painting, replacement maintenance, lighting, utilities, janitorial, garbage
 - Must show a year over year increase in costs and prove increase is outside of net operating income
- Berkeley:
 - Burden of proof is on the owner to show an increase is necessary to maintain net operating income

Capital Improvement Pass-Through

- Improvements that add value to the property
- Costs must be incurred in 12 months prior to rent increase
- Cost averaged on per unit basis and spread over at least 60 months
- Amount of rent increase lasts in perpetuity

Capital Improvement Pass-Through

- Oakland
 - Caps pass-through at 70% of cost
- Berkeley:
 - Prescriptive list of eligible improvements
 - Caps monthly increase for Seniors, those living on SSI, General Assistance or Aid to Families with Dependent Children
- East Palo Alto
 - Provides for interest on amortization at the Freddie Mac 30-year fixed rate amount + 2%
- Santa Monica
 - Offers advanced authorization/approval to complete

Rehabilitation Pass-Through

- What qualifies
 - Repair damage from earthquake, fire, or natural disaster
 - Building repairs to come into compliance with City order
- Most cities prohibit pass-through associated with code violation repairs
- Costs must be incurred in 12 months prior to rent increase
- Cost averaged on per unit basis and spread over at least 36 months
- Amount of rent increase lasts in perpetuity

of Pass-Through Petitions Since FY 2009-10

- # of Operations & Maintenance petitions = 0
- # of Rehabilitation petitions = 0
- # of Capital Improvement petitions = 2, one withdrawn
 - 4-unit apartment
 - Base rent: \$1,890
 - Rent increase: \$460
 - New rent: \$2,350 (24% increase)

Focus Question

- Although the ARO contains several provisions to cover costs of running an apartment building, what are the reasons for the limited number of pass-through petitions filed in the past five years, given that being able to operate and to maintain ARO properties have been identified by owners as a key priority?

Focus Question

- Do the current allowances/requirements of the pass-through provisions meet the public purposes as stated in the ARO?
 - Prevention of excessive and unreasonable rent increases
 - Alleviation of undue hardship upon individual tenants
 - Assurance of a fair and reasonable return on the value of their property

Focus Question

- Do the current allowances/requirements of the pass-through provisions align with the Advisory Committee's shared principles of
 - Certainty
 - Predictability
 - Fairness

Debt Service Pass-Through

- New debt from purchase of the property
- Must claim within one year of purchase
- Proportionate share of monthly mortgage cost by apartment (per unit or per square foot)
- Amount of rent increase lasts in perpetuity

Debt Service Pass-Through

Jurisdiction	Treatment of Debt-Service
San Jose	Owner May Petition for Pass through of Increase, subject to limitations
Los Angeles	Excluded from Consideration
San Francisco	Owner May Petition for Pass through of Increase, subject to limitations
Oakland*	Excluded from Consideration
Berkeley	Excluded from Consideration
Santa Monica	Excluded from Consideration
Hayward	Owner May Petition for Pass through of Increase, subject to limitations
West Hollywood	Excluded from Consideration
East Palo Alto	Excluded from Consideration
Los Gatos	Owner May Petition for Pass through of Increase, subject to limitations
Beverly Hills	Not specified in Ordinance

*Oakland eliminated its debt-service provision in 2014

Debt Service Pass-through: FY 2010-15

Previous Average Rent	Rent Increase	New Average Rent	Percentage Increase
\$ 1,120	\$ 89	\$ 1,209	8%
\$ 946	\$ 193	\$ 1,139	21%
\$ 598	\$ 378	\$ 976	65%
\$ 902	\$ 300	\$ 1,202	33%
\$ 675	\$ 114	\$ 789	17%
\$ 881	\$ 335	\$ 1,216	30%
\$ 1,298	\$ 209	\$ 1,507	16%
\$ 1,198	\$ 327	\$ 1,525	27%
\$ 1,191	\$ 408	\$ 1,599	34%
\$ 1,700	\$ 255	\$ 1,955	15%
\$ 1,920	\$ 230	\$ 2,150	12%
\$ 871	\$ 64	\$ 935	7%
\$ 2,295	\$ 305	\$ 2,600	17%

Debt Service Pass-through: FY 2010-15

Units	Principal Amount	Mortgage Term (yr)	Monthly Cost	Purchase/ Refinance	LTV
24	\$ 3,363,850	10	\$ 10,572	Purchase	65%
8	\$ 928,000	30	\$ 3,637	Purchase	75%
6	\$ 415,000	4	\$ 3,153	Purchase	52%
12	\$ 545,000	30	\$ 5,118	Purchase	34%
25	\$ 3,360,000	30	\$ 16,041	Purchase	70%
7	\$ 843,750	30	\$ 3,339	Purchase	73%
6	\$ 831,600	30	\$ 3,526	Purchase	70%
6	\$ 881,250	30	\$ 3,488	Purchase	71%
4	\$ 604,500	30	\$ 2,564	Purchase	63%
4	\$ 1,000,000	30	\$ 4,463	Purchase	55%
4	\$ 1,000,000	30	\$ 2,281	Purchase	55%
6	\$ 492,500	30	\$ 2,281	Purchase	48%
4	\$ 900,000	30	\$ 3,076	Purchase	66%

Focus Question

- What is the purpose of the debt-service pass-through?
 - For the owner
 - For the tenant

Focus Question

- What would be the consequences of not having a debt-service pass-through provision?
 - For the owner
 - For the tenant

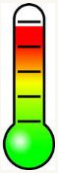
Focus Question

- Does the debt-service pass-through provision meet the public purposes as stated in the ARO?
 - Prevention of excessive and unreasonable rent increases
 - Alleviation of undue hardship upon individual tenants
 - Assurance of a fair and reasonable return on the value of their property

Focus Question

- Does the existing debt service provision align with the Advisory Committee's shared principles of
 - Certainty
 - Predictability
 - Fairness

Temperature Check



Should the City continue to explore potential modifications to the ARO's debt-service provision?

Public Comment

For more information visit:

<http://www.sanjoseca.gov/index.aspx?nid=4744>

Scan code with your smart phone/device to sign up
for email updates on this process.



Select: “2015 Apartment Rent Ordinance”

Open Forum

This time is reserved for comment
on items not on the Agenda

Meeting Schedule

Date	Time	Location
Wednesday, September 30	6:00 – 8:30pm	Roosevelt Community Center
Wednesday, October 7	6:00 – 8:30pm	Roosevelt Community Center
Wednesday, October 14	6:00 – 8:30pm	Roosevelt Community Center
Saturday, October 17	10:00am – 2:00pm	San Jose High School Cafeteria
Wednesday, October 21	6:15 – 8:30pm	San Jose High School – Cafeteria
Saturday, October 24	10:00am – 2:00pm	San Jose City Hall Council Chambers
Wednesday, October 28	6:00 - 8:30pm	San Jose City Hall Council Chambers
Saturday, October 31	10:00am - 2:00pm	San Jose City Hall Council Chambers
Wednesday, November 4	6:00 - 8:30pm	Roosevelt Community Center
Saturday, November 7	10:00am - 2:00pm	San Jose City Hall Council Chambers
Monday, November 9	6:00 - 8:30pm	San Jose City Hall Council Chambers

Next Meeting:

Wednesday, October 28

6:00pm

San Jose City Hall - Council Chambers

Topic: Administrative
Hearing Process, Monitoring &
Enforcement